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REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)
10557/247605

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is described and claimed in patent number 5,931,870, granted August 3, 1999, and for which a reissue patent is sought on the invention entitled Acetabular Ring Prosthesis with Reinforcement Buttress,

the specification of which

☐ is attached hereto.

☒ was filed on August 1, 2001 as reissue application number 09 / 920,432
and was amended on August 1, 2001.
(If applicable)

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.

☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.

☐ by reason of other errors.

At least one error upon which reissue is based is described as follows:

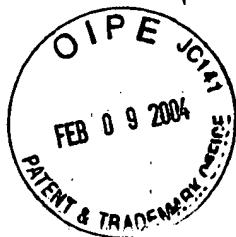
The patent is defective because its claims are too narrow. At least Claim 35 recites elements that are not necessary for patentability over the art of record. Claim 35 recites an acetabular cup prosthesis that includes a buttress for cement containing or securing. However, a buttress is not required for Claim 35 to be patentable over the art of record. Nor does the specification limit the function of cement containing or securing to a buttress.

The cement containing or securing portion could be any type of structure, member or surface that reinforces or contains cement in the cup or that maintains the liner in position. The specification discloses the purpose of the buttress as helping to "secure a mass of cement in between the cup body and the polymeric liner" and discloses that it "can be used to contain bone cement in a mass to aid in holding the polyethylene ("all poly") liner in position." See col. 2, lines 63-65; col. 5, lines 1-5 respectively.

The invention in at least some aspects relates to an acetabular cup that includes, among other things, a superior flange, a posterior flange, and an inferior flange, each of which includes at least two bone screw retention openings, and a distally extending concave surface of the cup that extends to a greater extent adjacent the superior and posterior flanges than at other positions around a rim of the cup. The distally extending surface is shaped in this manner to act in combination with the flanges to accomplish the cement containing function. It is not necessary that the distally extending surface be limited to having a buttress that accomplishes this function.

These defects in the claims arose during prosecution of the application that resulted in the original patent because of the applicants' and the attorneys' failure to appreciate the full scope of the invention. More specifically, it was not appreciated that an acetabular prosthesis incorporating the above mentioned distally extending surface and superior, posterior and inferior flanges would be patentable.

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2) Docket Number (Optional)
10557/247605

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant. As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Name(s) _____ Registration Number _____

Correspondence Address: Direct all communications about the application to:

☒ Customer Number 28370 → Place Customer Number Bar Code Label here

OR _____ Type Customer Number here

☐ Firm or individual name _____

Address _____

Address _____

City _____ State _____ ZIP _____

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name)
John M. Cuckder

Inventor's signature _____

Residence _____ Date _____

Mailing Address _____ Citizenship U.S.

Full name of second joint inventor (given name, family name)
Joseph Schatzker

Inventor's signature *X* Joseph Schatzker Date *X* Feb 5 2004

Residence Toronto, Ontario, Canada Citizenship Canadian

Mailing Address
110 Crescent Road, Toronto, Ontario M4W 1T5 Canada

Full name of third joint inventor (given name, family name)
Allan E. Gross

Inventor's signature _____ Date _____

Residence Toronto, Ontario, Canada Citizenship Canadian

Mailing Address
93 Glen Edyth Drive, Toronto, Ontario M4V 2V6

OR Additional joint inventors are named on separately numbered sheets attached hereto.

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Registration Number

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OR

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☐ Firm or
Individual Name

Address

Address

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Full name of sole or first inventor (given name, family name)

John M. Cuckler

Inventor's signature

Residence

Date

Mailing Address

Citizenship
U.S.

Full name of second joint inventor (given name, family name)

Joseph Schatzker

Inventor's signature

Date

Residence Toronto, Ontario, Canada

Citizenship
Canadian

Mailing Address

110 Crescent Road, Toronto, Ontario M4W 1T5 Canada

Full name of third joint inventor (given name, family name)

Allan E. Gross

Inventor's signature

Date

x

Residence
Toronto, Ontario, Canada

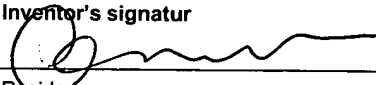
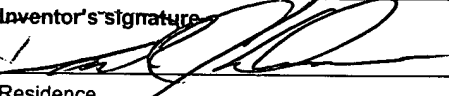
x

Citizenship
Canadian

Mailing Address

93 Glen Edyth Drive, Toronto, Ontario M4V 2V8

☒ Additional joint inventors are named on separately numbered sheets attached hereto.

Full name of fourth joint inventor (given name, family name)	
Constance E. Johnston	
Inventor's signature 	Date Jan 26, 2004
Residence Eads, Tennessee, USA	Citizenship USA
Mailing Address 10863 Raleigh LaGrange, Eads, Tennessee 38028	
Full name of fifth joint inventor (given name, family name)	
David C. Kelman	
Inventor's signature 	Date JAN 28, 2004
Residence Collierville, Tennessee, USA	Citizenship USA
Mailing Address 10306 Shrewsbury Run West, Collierville, Tennessee 38017	
Full name of fifth joint inventor (given name, family name)	
Timothy McTighe	
Inventor's signature	Date
Residence Chagrin Falls, Ohio, USA	Citizenship USA
Mailing Address 17321 Buckthorne Drive, Chagrin Falls, Ohio 44023	



Full name of fourth joint inventor (given name, family name) Constance E. Johnston	
Inventor's signature	Date
Residence Eads, Tennessee, USA	Citizenship USA
Mailing Address 10863 Raleigh LaGrange, Eads, Tennessee 38028	
Full name of fifth joint inventor (given name, family name) David C. Kelman	
Inventor's signature	Date
Residence Collierville, Tennessee, USA	Citizenship USA
Mailing Address 10306 Shrewsbury Run West, Collierville, Tennessee 38017	
Full name of fifth joint inventor (given name, family name) Timothy McTighe	
Inventor's signature <i>Timothy McTighe</i>	Date 1-29-04
Residence Chagrin Falls, Ohio, USA	Citizenship USA USA
Mailing Address 17321 Buckthorne Drive, Chagrin Falls, Ohio 44023	

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Attorney and/or Agent	Registration No.
Roger T. Frost	22,176
Anthony B. Askew	24,154
John M. Harrington	25,592
Robert E. Richards	29,105
John S. Pratt	29,476
James L. Ewing, IV	30,630
Stephen M. Schaetzel	31,418
James Dean Johnson	31,771
Charles W. Calkins	31,814
Larry A. Roberts	31,871
Jamie L. Greene	32,467
George T. Marcou	33,014
Dean W. Russell	33,452
Charles T. Simmons	35,359
Eleanor M. Musick	35,623
Bruce D. Gray	35,799
Mitchell G. Stockwell	39,389
Jeffery B. Arnold	39,540
Brenda Ozaki Holmes	40,339
Michael J. Turton	40,852
Yoncha L. Kundupoglu	41,130
J. Steven Gardner	41,772
Thomas A. Corrado	42,439
John K. McDonald	42,860
Sima Singadia Kulkarni	43,732
Camilla Camp Williams	43,992
Christopher J. Chan	44,070

Attorney and/or Agent	Registration No.
John William Ball, Jr.	44,433
Dawn-Marie Bey	44,442
Tiep H. Nguyen	44,465
Michael J. Dimino	44,657
Lisa C. Pavento	44,669
Kristin L. Johnson	44,807
J. Jason Link	44,874
Goran P. Stojkovich	45,841
Vaibhav P. Kadaba	45,865
J. Michael Boggs	46,563
Tywanda L. Harris	46,758
Cynthia B. Rothschild	47,040
John C. Alemanni	47,384
Geoffrey K. Gavin	47,591
Janina Malone	47,768
Aleta A. Mills	47,794
Eric Sophir	48,499
Todd W. Galinski	51,713
William K. McGreevey	52,012
Elena S. Polovnikova	52,130
Samuel B. Rollins	52,180
David E. Wigley	52,362
Catherine E. Fienning	54,095
J. Clinton Wimbish	54,545
Bret T. Winterle	54,546
Michael A. Bertelson	54,713

In addition to the above, the following associate attorneys are hereby appointed to prosecute and transact all business in the U.S. Patent and Trademark Office connected therewith:

Joel Petrow	30,886
William B. Clemmons, Jr.	32,558
George Stacey	35,688

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